

**STATE OF WASHINGTON  
DEPARTMENT OF FINANCIAL INSTITUTIONS  
CONSUMER SERVICES DIVISION**

IN THE MATTER OF DETERMINING  
Whether there has been a violation of the  
Mortgage Broker Practices Act of Washington by:

MORTGAGE LENDING SOURCE, INC., and  
MUSTAFA G. KHOSRAW, President and  
Designated Broker,

Respondents.

NO. C-02-372-03-SC01

STATEMENT OF CHARGES and  
NOTICE OF INTENTION TO ENTER AN  
ORDER TO REVOKE LICENSE, COLLECT  
ANNUAL ASSESSMENTS,  
IMPOSE FINE, PROHIBIT FROM  
PARTICIPATION IN THE INDUSTRY, AND  
COLLECT INVESTIGATION FEES

**INTRODUCTION**

Pursuant to RCW 19.146.220 and RCW 19.146.223, the Director of the Department of Financial Institutions of the State of Washington ("Director") is responsible for the administration of chapter 19.146 RCW, the Mortgage Broker Practices Act ("Act"). The referenced statutes (RCW) and rules (WAC) are attached, in pertinent part. After having conducted an investigation pursuant to RCW 19.146.235, and based upon the facts available as of August 19, 2003 the Director institutes this proceeding and finds as follows:

**I. FACTUAL ALLEGATIONS**

**1. Respondents:**

A. Mortgage Lending Source, Inc. ("Respondent MLS") is licensed to conduct the business of a mortgage broker at:

545 108<sup>th</sup> Ave NE Ste 4 & 5  
Bellevue WA 98004

B. Mustafa G. Khosraw ("Respondent Khosraw") is President of Respondent MLS and was named Designated Broker on September 10, 1999, and has continued as Designated Broker to date.

- 1   **2.      License:** Respondent MLS was licensed by the Department of Financial Institutions (“Department”) to  
2   conduct business as a mortgage broker on June 1, 1999, and has continued to be licensed to date.
- 3   **3.      State Corporate License:** Respondent MLS was incorporated to do business in the State of Washington  
4   on May 7, 1999. The license of the corporation, issued by the Washington State Secretary of State, expired on  
5   May 31, 2001. To date, Respondents have not notified the Department of this change in standing with the State  
6   of Washington Secretary of State.
- 7   **4.      Continuing Education Requirement:** Certificates of satisfactory completion of approved continuing  
8   education courses were due to the Department from Respondent Khosraw no later than the last business day of  
9   June 2002 and 2003, respectively, for the years then ended. To date, Respondent Khosraw has not provided the  
10   Department with such certificates of completion of the required continuing education courses. The Department  
11   applied the certificate of completion of an approved continuing education course provided by Respondent  
12   Khosraw dated May 3, 2002 to the continuing education requirement for the year ended June 30, 2001.
- 13   **5.      Annual Assessment:** An annual assessment fee is due to the Department each year, no later than the last  
14   business day of June. Respondents have not paid the following annual assessment fees: \$500.00 due by June 30,  
15   2001; \$513.95 due by June 30, 2002; and \$530.86 due by June 30, 2003. The annual assessment fee of \$530.86  
16   for the year ending June 30, 2004 will be due no later than June 30, 2004.
- 17   **6.      Surety Bond:** Respondents provided the Department with an assignment of a \$20,000 certificate of  
18   deposit in lieu of a surety bond on August 31, 1999. On August 1, 2002, the Department issued a release of  
19   partial interest in the assigned funds to American Reporting Corp. in satisfaction of King County Court Judgment  
20   #Y16130 against Mortgage Lending Source, Inc. in the amount of \$3,991. To date, Respondents have failed to  
21   make the certificate of deposit whole or notify the Department of the significant decline in value.
- 22   **7.      Change in Address:** Mail from the Department addressed to Respondent MLS’s licensed location has  
23   been returned marked “MOVED LEFT NO ADDRESS.” To date, Respondents have failed to notify the  
24   Department of a change in the location of its principal place of business.

1 **8. Issuance of Directives:** On May 30, 2001, the Department issued a Directive, via First Class mail, to  
2 Respondents to produce records and an explanation relating to a complaint filed with the Department alleging  
3 failure to pay a third party service provider. This Directive was followed by the issuance a Subpoena, via First  
4 Class mail, compelling production of records and an explanation dated June 15, 2001, and the issuance of a  
5 Resolution and Request for Action, via First Class mail, dated October 26, 2001. On January 10, 2002, the  
6 Department issued a Directive, via First Class mail, to Respondents to produce records and an explanation  
7 relating to an additional complaint filed with the Department alleging failure to pay another third party service  
8 provider. This Directive was followed by the issuance of a Subpoena, via First Class mail, compelling production  
9 of records and an explanation dated January 29, 2002, and the issuance of a Resolution and Request for Action,  
10 via First Class mail, dated July 22, 2002. The Resolution and Request for Action dated July 22, 2002 was  
11 returned by the United States Post Office marked "Moved-Unable to Forward." On August 15, 2002, Respondent  
12 Khosraw contacted the Department by telephone and orally provided a new mailing address and fax number. On  
13 August 16, 2002, the Department sent a copy of the Request and Resolution for Action dated July 22, 2002, via  
14 First Class mail, to the newly provided address. On August 23, 2002, the Department faxed a copy of the  
15 Resolution and Request for Action dated October 26, 2001, to the newly provided fax number. On October 28,  
16 2002, the Department issued a Directive, via Certified mail, to Respondents to: (a) provide a certificate of  
17 satisfactory completion of an approved continuing education course for Respondent Khosraw which had been due  
18 no later than June 30, 2002 for the year then ended; (b) pay past due annual assessment fees totaling \$1,013.95  
19 for the years ended June 30, 2001 and 2002, respectively; (c) make the surety alternative whole in the amount of  
20 \$20,000; and (d) submit an address change amendment application form immediately. Receipt of the Directive  
21 dated October 28, 2002 was acknowledged by the signature of Mustafa Khosraw, dated November 12, 2002. To  
22 date, Respondents have failed to respond to or comply with any of the aforementioned Directives, Subpoenas, and  
23 Resolutions and Requests for Action issued by the Department.

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## II. GROUNDS FOR ENTRY OF ORDER

**1. Disclosure of Significant Developments:** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of WAC 208-660-150(1)(e), WAC 208-660-150(2) and WAC 208-660-150(3)(b) and (f) for failing to notify the Director in writing within thirty days of any significant decline in value of an approved surety bond alternative held by the Director, failing to notify the Director in writing ten days prior to a change of the location of the licensee's principal place of business, and failing to notify the Director in writing within five days after a change in mailing address or telephone number or standing with the state of Washington Secretary of State.

**2. Continuing Education Requirement:** Based on the Factual Allegations set forth in Section I above, Respondent Khosraw is in apparent violation of RCW 19.146.215 and WAC 208-660-042 for failing to complete the annual continuing education requirement and file a certificate of satisfactory completion no later than the last business day of the month in which the anniversary date of the issuance of the Designated Broker's license occurs.

**3. Requirement to Pay Fees:** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.228(1), WAC 208-660-060(3) and WAC 208-660-061 for failing to pay to the Director an annual assessment fee no later than the last business day of the month in which the anniversary date of the issuance of the mortgage broker's license occurs.

**4. Requirement to Maintain Surety Bond or Approved Alternative:** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.205(4)(a) and (b), WAC 208-660-080 and WAC 208-660-08005 for failing to maintain, in lieu of a surety bond and upon approval from the Department, a certificate of deposit drawn in favor of the Department in an amount equal to the required surety bond.

**5. Authority to Revoke License:** Pursuant to RCW 19.146.220(2)(b)(ii), (iii) and (iv), and WAC 208-660-160(1), (2), (13) and (15), the Director may revoke a license if a licensee fails to pay a fee required by the

Director, fails to maintain the required bond or approved alternative, or fails to comply with any directive or order of the Director.

**6. Authority to Impose Fine:** Pursuant to RCW 19.146.220(2)(c) and WAC 208-660-165, the Director may impose fines on a licensee that fails to maintain the required bond or approved alternative, or fails to comply with any directive or order of the Director.

**7. Authority to Prohibit from the Industry:** Pursuant to RCW 19.146.220(2)(e)(i) and (iv), the Director may prohibit from participation in the conduct of the affairs of a licensed mortgage broker, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under the Act that fails to maintain the required bond or approved alternative, or fails to comply with any directive or order of the Director.

**8. Authority to Charge Investigation Fee:** Pursuant to RCW 19.146.228(2), WAC 208-660-060(4) and WAC 208-660-061, upon completion of any investigation of the books and records of a licensee, the Department will furnish to the licensee a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of forty-seven dollars and seventy-eight cents (\$47.78) per hour that each staff person devoted to the investigation.

**9. Accounting Requirements:** Based on the Factual Allegations set forth in Section I above, Respondents are in apparent violation of RCW 19.146.060 and WAC 208-660-140 for failing to make accurate and current books and records readily available to the Department until at least twenty-five months have elapsed following the effective period to which the books and records relate.

### III. NOTICE OF INTENT TO ENTER ORDER

Respondents' violations of the provisions of chapter 19.146 RCW and chapter 208-660 WAC, as set forth in the above Factual Allegations and Grounds for Entry of Order, constitute a basis for the entry of an Order under RCW 19.146.220, RCW 19.146.221 and RCW 19.146.223. Therefore, it is the Director's intention to ORDER that:

1. Respondent MLS's license to conduct the business of a mortgage broker be revoked;

2. Respondents jointly and severally pay the cumulative delinquent Annual Assessments due through June 30, 2003 totaling \$1,544.81 (\$500.00 for the year ended June 30, 2001, \$513.95 for the year ended June 30, 2002, and \$530.86 for the year ended June 30, 2003). Additionally, Respondents jointly and severally pay the \$530.86 Annual Assessment for the year ending June 30, 2004 no later than June 30, 2004;
3. Respondents jointly and severally pay a fine of \$4,500.00 for failure to maintain an approved surety bond alternative and failure to comply with Department directives, calculated at \$75 per statutory violation per day, for 30 days;
4. Respondent Khosraw be prohibited from participation in the conduct of the affairs of any licensed mortgage broker, in any manner, for a period of five (5) years;
5. Respondents jointly and severally pay an examination fee in the amount of \$716.70 calculated at \$47.78 per hour for each staff hour devoted to the investigation (15 hours); and
6. Respondents maintain records in compliance with the Act and provide the Department with the location of the books, records and other information relating to Respondent MLS's mortgage broker business, and the name, address and telephone number of the individual responsible for maintenance of such records in compliance with the Act.

#### IV. AUTHORITY AND PROCEDURE

This Statement of Charges and Notice of Intention to Enter and Order to Revoke License, Collect Annual Assessments, Impose Fine, Prohibit from Participation in the Industry, and Collect Investigation Fees is entered pursuant to the provisions of RCW 19.146.220, RCW 19.146.221, RCW 19.146.223 and RCW 19.146.230, and is subject to the provisions of chapter 34.05 RCW (The Administrative Procedure Act). Respondents may make a written request for a hearing as set forth in the NOTICE OF OPPORTUNITY TO DEFEND AND OPPORTUNITY FOR HEARING accompanying this Statement of Charges and Notice of Intention to Enter and Order to Revoke License, Collect Annual Assessments, Impose Fine, Prohibit from Participation in the Industry, and Collect Investigation Fees.

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Dated this 19th day of August, 2003.

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CHUCK CROSS  
Acting Director and Enforcement Chief  
Division of Consumer Services  
Department of Financial Institutions

Presented by:

\_\_\_\_\_/S/\_\_\_\_\_  
Mark T. Olson  
Legal Extern

**RCW 19.146.060 Accounting requirements.** (1) A mortgage broker shall use generally accepted accounting principles.

(2) Except as otherwise provided in subsection (3) of this section, a mortgage broker shall maintain accurate and current books and records which shall be readily available at the mortgage broker's usual business location until at least twenty-five months have elapsed following the effective period to which the books and records relate.

(3) Where a mortgage broker's usual business location is outside of the state of Washington, the mortgage broker shall, as determined by the director by rule, either maintain its books and records at a location in this state, or reimburse the director for his or her expenses, including but not limited to transportation, food, and lodging expenses, relating to any examination or investigation resulting under this chapter.

(4) "Books and records" includes but is not limited to:

(a) Copies of all advertisements placed by or at the request of the mortgage broker which mention rates or fees. In the case of radio or television advertisements, or advertisements placed on a telephonic information line or other electronic source of information including but not limited to a computer data base or electronic bulletin board, a mortgage broker shall keep copies of the precise script for the advertisement. All advertisement records shall include for each advertisement the date or dates of publication and name of each periodical, broadcast station, or telephone information line which published the advertisement or, in the case of a flyer or other material distributed by the mortgage broker, the dates, methods, and areas of distribution; and

(b) Copies of all documents, notes, computer records if not stored in printed form, correspondence or memoranda relating to a borrower from whom the mortgage broker has accepted a deposit or other funds, or accepted a residential mortgage loan application or with whom the mortgage broker has entered into an agreement to assist in obtaining a residential mortgage loan.

[1997 c 106 § 6; 1994 c 33 § 20; 1987 c 391 § 8.]

**RCW 19.146.205 License – Application – Exchange of fingerprint data with federal bureau of investigation – Fee – Bond or alternative.**

...

(4)(a) Each applicant for a mortgage broker's license shall file and maintain a surety bond, in an amount of not greater than sixty thousand dollars nor less than twenty thousand dollars which the director deems adequate to protect the public interest, executed by the applicant as obligor and by a surety company authorized to do a surety business in this state as surety. The bonding requirement as established by the director may take the form of a uniform bond amount for all licensees or the director may establish by rule a schedule establishing a range of bond amounts which shall vary according to the annual average number of loan originators or independent contractors of a licensee. The bond shall run to the state of Washington as obligee, and shall run first to the benefit of the borrower and then to the benefit of the state and any person or persons who suffer loss by reason of the applicant's or its loan originator's violation of any provision of this chapter or rules adopted under this chapter. The bond shall be conditioned that the obligor as licensee will faithfully conform to and abide by this chapter and all rules adopted under this chapter, and shall reimburse all persons who suffer loss by reason of a violation of this chapter or rules adopted under this chapter. Borrowers shall be given priority over the state and other persons. The state and other third parties shall be allowed to receive distribution pursuant to a valid claim against the remainder of the bond. In the case of claims made by any person or entity who is not a borrower, no final judgment may be entered prior to one hundred eighty days following the date the claim is filed. The bond shall be continuous and may be canceled by the surety upon the surety giving written notice to the director of its intent to cancel the bond. The cancellation shall be effective thirty days after the notice is received by the director. Whether or not the bond is renewed, continued, reinstated, reissued, or otherwise extended, replaced, or modified, including increases or decreases in the penal sum, it shall be considered one continuous obligation, and the surety upon the bond shall not be liable in an aggregate or cumulative amount exceeding the penal sum set forth on the face of the bond. In no event shall the penal sum, or any portion thereof, at two or more points in time be added together in determining the surety's liability. The bond shall not be liable for any penalties imposed on the licensee, including, but not limited to, any increased damages or attorneys' fees, or both, awarded under RCW 19.86.090. The applicant may obtain the bond directly from the



surety or through a group bonding arrangement involving a professional organization comprised of mortgage brokers if the arrangement provides at least as much coverage as is required under this subsection.

(b) In lieu of a surety bond, the applicant may, upon approval by the director, file with the director a certificate of deposit, an irrevocable letter of credit, or such other instrument as approved by the director by rule, drawn in favor of the director for an amount equal to the required bond.

...

[2001 c 177 § 4; 1997 c 106 § 9; 1994 c 33 § 8; 1993 c 468 § 6.]

**RCW 19.146.215 Continuing education – Rules.** The designated broker of every licensee shall complete an annual continuing education requirement, which the director shall define by rule.

[1997 c 106 § 11; 1994 c 33 § 11.]

**RCW 19.146.220 Director – Powers and duties – Violations as separate violations – Rules.**

(1) The director shall enforce all laws and rules relating to the licensing of mortgage brokers, grant or deny licenses to mortgage brokers, and hold hearings.

(2) The director may impose the following sanctions:

(a) Deny applications for licenses for: (i) Violations of orders, including cease and desist orders issued under this chapter; or (ii) any violation of RCW [19.146.050](#) or [19.146.0201](#) (1) through (9);

(b) Suspend or revoke licenses for:

(i) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(ii) Failure to pay a fee required by the director or maintain the required bond;

(iii) Failure to comply with any directive or order of the director; or

(iv) Any violation of RCW [19.146.050](#), [19.146.060](#)(3), [19.146.0201](#) (1) through (9) or (12), [19.146.205](#)(4), or [19.146.265](#);

(c) Impose fines on the licensee, employee or loan originator of the licensee, or other person subject to this chapter for:

(i) Any violations of RCW [19.146.0201](#) (1) through (9) or (12), [19.146.030](#) through [19.146.080](#), [19.146.200](#), [19.146.205](#)(4), or [19.146.265](#); or

(ii) Failure to comply with any directive or order of the director;

(d) Issue orders directing a licensee, its employee or loan originator, or other person subject to this chapter to:

(i) Cease and desist from conducting business in a manner that is injurious to the public or violates any provision of this chapter; or

(ii) Pay restitution to an injured borrower; or

(e) Issue orders removing from office or prohibiting from participation in the conduct of the affairs of a licensed mortgage broker, or both, any officer, principal, employee, or loan originator of any licensed mortgage broker or any person subject to licensing under this chapter for:

(i) Any violation of [19.146.0201](#) (1) through (9) or (12), [19.146.030](#) through [19.146.080](#), [19.146.200](#), [19.146.205](#)(4), or [19.146.265](#); or

(ii) False statements or omission of material information on the application that, if known, would have allowed the director to deny the application for the original license;

(iii) Conviction of a gross misdemeanor involving dishonesty or financial misconduct or a felony after obtaining a license; or

(iv) Failure to comply with any directive or order of the director.

(3) Each day's continuance of a violation or failure to comply with any directive or order of the director is a separate and distinct violation or failure.

(4) The director shall establish by rule standards for licensure of applicants licensed in other jurisdictions.

(5) The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a \*residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order.

[1997 c 106 § 12; 1997 c 58 § 879; 1996 c 103 § 1; 1994 c 33 § 12; 1993 c 468 § 8.]

**RCW 19.146.221 Action by director – Hearing – Sanction.** The director may, at his or her discretion and as provided for in \*RCW 19.146.220(2), take any action specified in RCW 19.146.220(1). If the person subject to such action does not appear in person or by counsel at the time and place designated for any administrative hearing that may be held on the action then the person shall be deemed to consent to the action. If the person subject to the action consents, or if after hearing the director finds by a preponderance of the evidence that any grounds for sanctions under this chapter exist, then the director may impose any sanction authorized by this chapter.

[1994 c 33 § 13.]

**RCW 19.146.223 Director – Administration and interpretation.** The director shall have the power and broad administrative discretion to administer and interpret the provisions of this chapter to fulfill the intent of the legislature as expressed in RCW 19.146.005.

[1994 c 33 § 2.]

**RCW 19.146.228 Fees – Rules – Exception.** The director shall establish fees by rule in accordance with RCW 43.24.086 sufficient to cover, but not exceed, the costs of administering this chapter. These fees may include:

(1) An annual assessment paid by each licensee on or before a date specified by rule; . . .

(2) An investigation fee to cover the costs of any investigation of the books and records of a licensee or other person subject to this chapter;

. . .

[2001 c 177 § 5; 1997 c 106 § 13; 1994 c 33 § 9.]

**RCW 19.146.230 Administrative procedure act application.** The proceedings for denying license applications, issuing cease and desist orders, suspending or revoking licenses, and imposing civil penalties or other remedies issued pursuant to this chapter and any appeal therefrom or review thereof shall be governed by the provisions of the administrative procedure act, chapter 34.05 RCW.

1 [1994 c 33 § 16; 1993 c 468 § 10.]

2 **RCW 19.146.235 Director -- Investigation powers -- Duties of person subject to examination or investigation.**

3 For the purposes of investigating complaints arising under this chapter, the director may at any time, either personally or  
4 by a designee, examine the business, including but not limited to the books, accounts, records, and files used therein, of  
5 every licensee and of every person engaged in the business of mortgage brokering, whether such a person shall act or  
6 claim to act under or without the authority of this chapter. For that purpose the director and designated representatives  
7 shall have access during regular business hours to the offices and places of business, books, accounts, papers, records,  
8 files, safes, and vaults of all such persons.

9 The director or designated person may direct or order the attendance of and examine under oath all persons whose  
10 testimony may be required about the loans or the business or subject matter of any such examination or investigation, and  
11 may direct or order such person to produce books, accounts, records, files, and any other documents the director or  
12 designated person deems relevant to the inquiry. If a person who receives such a directive or order does not attend and  
13 testify, or does not produce the requested books, records, files, or other documents within the time period established in  
14 the directive or order, then the director or designated person may issue a subpoena requiring attendance or compelling  
15 production of books, records, files, or other documents. No person subject to examination or investigation under this  
16 chapter shall withhold, abstract, remove, mutilate, destroy, or secrete any books, records, computer records, or other  
17 information.

18 Once during the first two years of licensing, the director may visit, either personally or by designee, the licensee's place or  
19 places of business to conduct a compliance examination. The director may examine, either personally or by designee, a  
20 sample of the licensee's loan files, interview the licensee or other designated employee or independent contractor, and  
21 undertake such other activities as necessary to ensure that the licensee is in compliance with the provisions of this  
22 chapter. For those licensees issued licenses prior to March 21, 1994, the cost of such an examination shall be considered  
23 to have been prepaid in their license fee. After this one visit within the two-year period subsequent to issuance of a  
24 license, the director or a designee may visit the licensee's place or places of business only to ensure that corrective action  
25 has been taken or to investigate a complaint.

[1997 c 106 § 14; 1994 c 33 § 17; 1993 c 468 § 11.]

**WAC 208-660-042 Continuing education requirement.** (1) The principal or designated broker of a licensee must satisfactorily complete an approved continuing education course annually. Each licensee must file annually a certificate of satisfactory completion of an approved continuing education course by the licensee's principal or designated broker no later than the last business day of the month in which the anniversary date of the issuance of the licensee's license occurs.

(2) This section applies to each licensee beginning on the first anniversary date of the issuance of the licensee's license which occurs after December 31, 1995. (For example, if a licensee's license was issued on January 10, 1994, then the licensee must submit its first certificate of satisfactory completion of an approved continuing education course no later than the last business day of January 1996.)

**WAC 208-660-060 Department's fees and assessments.**

...

(3) Each licensee shall pay to the director an annual assessment of \$513.95 for each license, and \$513.95 for each branch office certificate. The annual assessment(s) will be due no later than the last business day of the month in which the anniversary date of the issuance of the broker's license occurs.

(4) Upon completion of any investigation of the books and records of a mortgage broker other than a licensee, the department will furnish to the broker a billing to cover the cost of the investigation. The investigation charge will be calculated at the rate of \$46.26 per hour that each staff person devoted to the investigation. The investigation billing will be paid by the mortgage broker promptly upon receipt.

**WAC 208-660-061 Fee increase.** The division intends to increase its fee and assessment rates each year for several bienniums. The division intends to initiate a rule making for this purpose each biennium. This rule provides for an automatic annual increase in the rate of fees and assessments each fiscal year during the 2001-03 biennium.

(1) On July 1, 2002, the fee and assessment rates under WAC 208-660-060, as increased in the prior fiscal year, will increase by a percentage rate equal to the fiscal growth factor for the then current fiscal year. As used in this section, "fiscal growth factor" has the same meaning as the term is defined in RCW 43.135.025.

(2) The director may round off a rate increase under subsection (1) of this section. However, no rate increase may exceed the applicable fiscal growth factor.

(3) By June 1 of each year, the director will make available a chart of the new rates that will take effect on the immediately following July 1.

**WAC 208-660-080 Surety bond and approved alternatives -- General requirements.**

(1) Each applicant for a license and licensee must file and maintain on file with the director:

(a) A surety bond in the required amount and related power of attorney issued by a bonding company or insurance company authorized to do business in this state; or

(b) An approved alternative to a surety bond in the required amount in accordance with WAC 208-660-08010. The required amount of the surety bond or approved alternative ranges from twenty thousand dollars to sixty thousand dollars and is based on the applicant's or licensee's monthly average number of loan originators calculated in accordance with subsection (2) of this section. The surety bond or approved alternative is subject to claims in accordance with RCW 19.146.205 and 19.146.240. Borrowers shall be given priority over the state and other persons who file claims against the bond or approved alternative. The state and other persons shall not receive distributions from the remainder of the bond or approved alternative pursuant to valid claims prior to one hundred eighty days following the date a claim is made against the bond.

(2) The monthly average number of loan originators is calculated as follows:

(a) If the applicant or licensee has not been in the mortgage broker business at any time during the preceding twelve months, the monthly average number of loan originators is determined by adding up the projected number of loan originators to be employed or engaged each month for the first twelve months during which the applicant or licensee will

do business, and dividing this total by twelve. The projected number of loan originators must reflect at least the actual number of originators at the inception of business.

(b) If the applicant or licensee has not been in the mortgage broker business at least some portion of each of the preceding twelve months, the monthly average number of loan originators is calculated by adding up the number of loan originators employed or engaged each month (or part thereof) for the number of months the applicant or licensee has been in business during the twelve-month period, and the projected number of loan originators to be employed or engaged each month for any additional months necessary to comprise a total of twelve months (or part thereof), and dividing this total by twelve.

(c) Otherwise, the monthly average number of loan originators as calculated by adding up the number of loan originators employed or engaged each month (or part thereof) for the previous twelve months, and dividing this total by twelve.

(3) Based upon the monthly average number of loan originators, the required surety bond amount is indicated by the following table:

Monthly Average Number of Loan Originators	Minimum Required Bond Amount
up to 3.0	\$20,000
more than 3.0, up to 6.0	\$30,000
more than 6.0, up to 9.0	\$40,000
more than 9.0, up to 15.0	\$50,000
more than 15.0	\$60,000

When calculating the required bond amount, an applicant or licensee shall use the worksheet form approved by the director.

(4) At least forty-five days prior to each anniversary of the issuance of the surety bond or approved alternative, each licensee shall calculate its required bond amount in accordance with subsections (2) and (3) of this section. If the required surety bond amount has changed, then the licensee shall within thirty days of the date of the calculation, file a new surety bond or approved alternative in the required amount or file documentation showing a change in the amount of the existing bond or alternative to the required amount.

(5) Each licensee shall use the bond form, assignment of certificate of deposit form, or irrevocable letter of credit form approved by the director.

[Statutory Authority: RCW 43.320.010, 19.146.223, 01-01-044, § 208-660-080, filed 12/8/00, effective 1/8/01; 96-04-028, recodified as § 208-660-080, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225, 95-13-091, § 50-60-080, filed 6/21/95, effective 7/22/95; 94-23-033, § 50-60-080, filed 11/8/94, effective 12/9/94. Statutory Authority: 1993 c 468 § 9, 94-03-009, § 50-60-080, filed 1/7/94, effective 2/7/94.]

**WAC 208-660-08005 Alternatives to the surety bond.**

(1) In lieu of a surety bond, an applicant for a license or licensee may with the approval of the director:

(a) File with the director an assignment of a certificate of deposit in the required surety bond amount, drawn in favor of the director. The depositor shall be entitled to receive all interest and dividends on the certificate of deposit.

(b) File with the director an irrevocable letter of credit in the required surety bond amount and drawn in favor of the director. The letter of credit must provide the same measure of protection as a surety bond provides to consumers and others who may have reason to make claim on the instrument. This means, in part, that the letter of credit must be available under its terms for one year after its expiration or suspension to pay claims arising out of violations while it was in effect. The letter of credit must be issued by a financial institution approved by the director. The licensee and the financial institution that issued the letter of credit must notify the director within two business days of any suspension, expiration, or material change in the protection provided by the letter of credit.

(2) A licensee may request in writing that an assignment of a certificate of deposit or a letter of credit be released. The director may release the assignment or letter of credit when a sufficient period of time has passed, not to exceed one year

after filing a surety bond or approved alternative, or after the licensee has ceased business, to allow for claims to be presented against the certificate of deposit or letter of credit.

To ensure protection for consumers and others, the director may require that the licensee file with the director, prior to the release of the assignment or letter of credit:

(a) A surety bond or an approved alternative, in the required amount, if the licensee intends to continue in the mortgage broker business under its license;

(b) All of the licensee's licenses and branch office certificates, if the licensee intends to no longer engage in the mortgage broker business, or if the licensee intends to continue in the business but has become exempt from licensing under the Mortgage Broker Practices Act. In the latter case, the director may also require the licensee to provide proof of exemption from licensing;

(c) Copies of any agreements between the licensee and the financial institutions that issued the certificate of deposit or letter of credit;

(d) Copies of any agreements between the licensee and any third party which represents an outstanding claim, potential claim, or settlement of any claim against the licensee which could diminish the protection enjoyed by consumers or others that may have reason to make a claim against the licensee;

(e) An audited financial statement for the licensee's mortgage broker business;

(f) Copies of any notes, secured or unsecured, or other forms of debt that are outstanding to any parties not mentioned in (a) through (e) of this subsection; and

(g) Any other information the director may deem necessary under the circumstances.

[96-04-028, recodified as § 208-660-08005, filed 2/1/96, effective 4/1/96. Statutory Authority: RCW 19.146.225. 95-13-091, § 50-60-08005, filed 6/21/95, effective 7/22/95.]

**WAC 208-660-140 General recordkeeping requirements.** (1) Each mortgage broker shall retain its books and records for a minimum of twenty-five months after the effective period to which the books and records relate.

However, books and records relating to a specific loan application must be maintained for a minimum of twenty-five months after a loan application is received. These books and records must be retained in all cases where a loan application has been received, any deposits or fees associated with a mortgage application have been accepted, or any written agreement has been executed.

(2) All books and records must be kept in a location in this state that is readily accessible to the department. However, a mortgage broker may store its books and records outside the state with the prior approval of the director, and after executing a written agreement with the director:

(a) To provide access to its books and records to investigate complaints against the mortgage broker; and

(b) To pay the department's travel, lodging and per diem expenses incurred in travel to examine books and records stored out-of-state.

(3) Books and records include without limitation: The original contracts for the broker's compensation, an accounting of all funds received in connection with loans, a copy of the settlement statements as provided to borrowers, a record of any fees refunded to applicants for loans that did not close, copies of the good faith estimates and all other written disclosures, and all other correspondence, papers or records relating to loan applications.

**WAC 208-660-150 Disclosure of significant developments.** (1) A licensee must notify the director in writing within thirty days after the occurrence of any of the following developments:

...

(e) Receipt of notification of cancellation of the licensee's surety bond or approved alternative, or any significant decline in value of an approved alternative held by the director.

...

(2) A licensee must notify the director in writing ten days prior to a change of the location of the licensee's principal place of business or any of its branch offices.

(3) A licensee must notify the director in writing within five days after a change in the licensee's:

...

(b) Mailing address or telephone number;

...

(f) Standing with the state of Washington secretary of state.

**WAC 208-660-160 License application denial or condition; license suspension or revocation.** The director may deny or condition approval of a license application, or suspend or revoke a license if the applicant or licensee, or any principal or designated broker of the applicant or licensee:

(1) Has failed to pay a fee due to the state in accordance with the Mortgage Broker Practices Act;

(2) Has not filed the required surety bond or approved alternative or otherwise complied with RCW 19.146.205;

...

(13) Has failed to comply with an order, directive, or requirement of the director, or his or her designee, or with an assurance of discontinuance entered into with the director, or his or her designee;

...

(15) Has failed to cooperate with the director, or his or her designee, including without limitation by:

(a) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation for disciplinary actions or denial, suspension, or revocation of a license; or

(b) Not furnishing any necessary papers or documents requested by the director for purposes of conducting an investigation into a complaint against the licensee filed with the department, or providing a full and complete written explanation of the circumstances of the complaint upon request by the director;

...

**WAC 208-660-165 Fines and penalties for violation of the Mortgage Broker Practices Act.** Each mortgage broker and each of its principals, designated brokers, officers, employees, independent contractors, and agents shall comply with the applicable provisions of the Mortgage Broker Practices Act. Each violation of any applicable provision of the Mortgage Broker Practices Act, or of any order, directive, or requirement of the director may, at the discretion of the director, subject the violator to a fine of up to one hundred dollars for each offense. Each day's continuance of the violation is a separate and distinct offense. In addition, the director in his or her discretion may by order assess other penalties for a violation of the Mortgage Broker Practices Act.